



# American Rescue Plan Act (ARPA)- Benefit Plan Changes

April 19, 2021



# Contents

- American Rescue Plan Act (ARPA)
  - COBRA Subsidies
  - Dependent Care Flexible Spending Account (DC-FSA) Limit Increase\*
- DC-FSA Direct Pay Program
- Next Steps

\*Requires action/vote by the SEBC

# COBRA Subsidy- Overview

ARPA requires the State Group Health Insurance Plan (GHIP) to offer six months of free COBRA continuation coverage for certain individuals referred to as “Assistance Eligible Individuals” (AEI), a special enrollment and coverage period, and new notice obligations for employers.

## **Highlights include:**

- Plans subject to the rules include group health, dental and vision plans.
- The subsidy amount is 100% of the COBRA premium and the 2% COBRA administrative fee and will be paid by the Health Fund.
- The Health Fund/State will then be reimbursed for the premium and 2% administrative fee via a refundable quarterly payroll tax credit per forthcoming Department of Treasury rules.

# COBRA Subsidy Coverage and AEIs

- The subsidy is available for up to six months, April 1 through September 30, 2021.
  - Ends if AEI is or becomes eligible for other group health coverage or Medicare.
  - AEI is obligated to report loss of eligibility and ARPA imposes penalty on AEI for failure to do so.
- Available for AEIs who experienced an involuntary termination of employment or reduction in hours since November 2019.
  - Involuntary termination or reduction in hours is not limited to events due to National Emergency.
  - Does not extend normal 18-month COBRA coverage period.
- Available to those AEIs who experienced an event but did not previously elect coverage.
  - Former employees and their covered dependents, both State and Participating groups.
  - Estimated to be approximately 3,300 employees

# COBRA Subsidy Notice Requirements

- Employer Notice Requirements:
  - Notice of availability of the subsidy must be included with qualifying event notice for those entitled to elect during the subsidy period.
  - Notice of new election period must be sent by May 31, 2021 to AEs who were entitled to elect coverage prior to April 1, 2021.
  - Notice of the end of subsidy must be sent to AEs not less than 15 days, and not more than 45 days, before end of subsidy.

# COBRA Subsidy- Next Steps

ASI COBRA and SBO are doing the following:

- Reviewing administrative system parameters for date-tracking and reporting options.
- Model notices will be reviewed carefully and incorporated as necessary:
  - US Dept. of Labor provided model notices on April 7, 2021.
- Working to identify AEIs.
- Preparing to send notice of subsidy availability no later than May 31, 2021.
- Preparing to send notices to AEIs who elect regarding the end date of subsidy.
- No action needed by the SEBC

# Dependent Care-FSA Overview

- Allows an employee to deduct dollars from their paycheck before they are taxed and put them into a special account to pay for work-related daycare, before/after school care, babysitters or elder care expenses.
- Election is irrevocable for the plan year unless the employee and/or spouse experiences a qualifying change.
- Internal Revenue Service regulations require that the plan does not favor Highly-Compensated Employees\* (HCE) as defined by the IRS.
- DC FSA is an alternative to taking a “Tax Credit” allowed with an individual’s tax filing each year. Individuals must choose whether to use the “Tax Credit” or the “FSA”. The IRS will not allow two tax breaks on the same expenses.
- Calendar year maximum limit prior to ARPA was \$5,000

\*Highly compensated employees are individuals who receive an annual compensation of \$130,000 or higher, as well as individuals who have been identified as key employees.

# Dependent Care-FSA Limit Increase

- ARPA permits employers to increase plan year maximum limit from \$5,000 to \$10,500 for Calendar Year 2021
- State Plan is on a Fiscal Year, not Calendar Year thereby limiting the maximum limit to \$8,000 for the period of July 1, 2021 – December 31, 2021 (\$2,500 limit previously set for 1/1-6/30/21).
- Any increase would be effective for July 1, 2021 (FY22) and communicated as part of Annual Open Enrollment – May 3 – May 19, 2021
- DC FSA GHIP Enrollment:
  - CY2019: 878 employees with 413 electing max amount
  - FY2021: 605 employees with 262 electing max amount

# DC-FSA Administrative Challenges

- ASI Enrollment Site must be modified to separate FY22 plan year election amounts for July-December 2021 and January - June 2022 to align with CY max limits (require participants to elect CY2021 maximum of no more than \$10,500).
- PHRST system requires table updates to account for limit increase.
- SBO/PHRST would need to override employee deductions applied via July 1 file to front load deductions for July-Dec 2021 to align with CY21 limit and reduce deductions for Jan-June 2022 to align to CY22 limit (currently assumed to return to \$5,000).
- Communicating change to employees during OE- unlike previous years, annual deduction amount will not be evenly split over all plan year pays (27 pays for FY2022).

# DC-FSA Considerations for Employees – Tax Credit or FSA

- Child and Dependent Care Tax Credit - ARPA raised the dollar limit on employment-related child and dependent care expenses from \$3,000 to \$8,000 for one qualifying individual and from \$6,000 to \$16,000 for two or more qualifying individuals.
- In addition, the maximum reimbursement percentage is increased from 35% to 50% resulting in the maximum allowable credit amount has been increased to \$4,000 for one qualifying individual and \$8,000 for two or more qualifying individuals.
- Employees must choose between either the “Tax Credit” or the “FSA”. The IRS will not allow two tax breaks on the same expenses.

# DC-FSA Considerations for Employees

- Internal Revenue Service regulations require that the plan does not favor Highly-Compensated Employees\* (HCE) as defined by the IRS.
- DC FSA Participants who meet the definition of an IRS Highly-Compensated Employee\* may be subject to mandatory decreases in their DC FSA per pay deductions if the State fails the required Non-Discrimination Testing
  - Plan has failed non-discrimination testing three times in the current plan year (August, December and March)

\*Highly compensated employees are individuals who receive an annual compensation of \$130,000 or higher, as well as individuals who have been identified as key employees.

# DC-FSA Direct Pay Program - NEW

- Enhancement for July 1 that allows day care providers to enroll in program and get paid directly from ASI Flex (FSA administrator).
- ASI Flex currently outreaching to providers used by SOD members to enroll in program.
- SBO will communicate program prior to and during May 3 – 19 Open Enrollment.

## Next Steps – SEBC Action/Vote

- SEBC action needed to increase the DC FSA maximum limit during the FY22 plan year to allow employees the opportunity to elect a maximum deduction of \$8,000 for July 1, 2021 – December 31, 2021.
- A decision/vote must be made at today's meeting in order to allow for changes to be made and communicated for the May 3 – 19, 2021 Open Enrollment.

# Thank You



Phone: 1-800-489-8933

Email: [benefits@delaware.gov](mailto:benefits@delaware.gov)

Website: [de.gov/statewidebenefits](http://de.gov/statewidebenefits)